



BUDGET WEEK UPDATE

Committee on the Budget • Majority Caucus
U.S. House of Representatives
Jim Nussle, *Chairman*

309 Cannon House Office Building
Washington, DC 20515 • (202) 226-7270
Rich Meade, *Chief of Staff* • www.budget.house.gov




Volume 4, Number 13

Summarizing budgetary issues in legislation
scheduled for the House floor

18 May 2004

Week of 17 May 2004

LEGISLATION CONSIDERED UNDER A RULE

- Bill:** *Occupational Safety and Health Small Business Day in Court Act of 2004* (H.R. 2728). 
- Committee:** Education and the Workforce
- Summary:** This bill provides exceptions to the 15-day deadline for employers to file responses to citations made by the Occupational Safety and Health Agency [OSHA]. Under current law, an employer who receives a citation or proposed assessment of penalty from OSHA has 15 days from receipt of the citation to file a notice of contest. Since the early 1980s, however, the Occupational Safety and Health Review Commission has granted relief from the final order in cases in which an employer filed a late notice of contest because of “mistake, inadvertence, surprise, or excusable neglect.”
- Cost:** This bill is not expected to have any impact on the Federal budget.
- Budget Act:** The bill does not violate any provisions of the Congressional Budget Act.
-
- Bill:** *Occupational Safety and Health Review Commission Efficiency Act of 2004* (H.R. 2729). 
- Committee:** Education and the Workforce
- Summary:** This bill amends the Occupational Safety and Health Act to increase the membership of the Occupational Safety and Review Commission [OSHRC] from three members to five.
- Cost:** This bill neither increases direct spending – spending not subject to appropriations – nor reduces revenue.
- Budget Act:** The bill does not violate any provisions of the Congressional Budget Act.
-
- Bill:** *Occupational Safety and Health Independent Review of OSHA Citations Act of 2004* (H.R. 2730). 
- Committee:** Education and the Workforce
- Summary:** This bill amends the Occupational Safety and Health Act to clarify that decisions made by the Occupational Safety and Health Review Commission [OSHRC] with respect to

(continued on next page)

PLEASE NOTE: This document addresses budgetary issues only. It should not be taken to address support or opposition on any other grounds. A green flag indicates no serious budgetary or budget compliance concerns. A yellow flag indicates moderate or potential problems. A red flag indicates serious problems. *Also note: Floor schedules and legislative details are subject to change after publication.* Conference reports may be brought up at any time.

This document was prepared by the majority staff of the Committee on the Budget, U.S. House of Representatives. It has not been approved by the full committee and therefore may not reflect the views of all the committee's members.

questions of law should be given deference by appellate courts. OSHRC is an independent Federal agency created to adjudicate contests of citations or penalties resulting from inspections of workplaces by the Occupational Safety and Health Agency. OSHRC functions as an administrative court whose decisions can be appealed to the judicial court system.

Cost: This bill neither increases direct spending nor reduces revenue.

Budget Act: The bill does not violate any provisions of the Congressional Budget Act.

Bill: ***Occupational Safety and Health Small Employer Access to Justice Act of 2004*** (H.R. 2731). 

Committee: Education and the Workforce

Summary: This bill permits small employers – those with 100 or fewer employees and net worth of less than \$7 million – to be awarded attorney fees and expenses if they prevail against the Occupational Safety and Health Agency [OSHA] in administrative or court proceedings.

Cost: This bill neither increases direct spending nor reduces revenue.

Budget Act: The bill does not violate any provisions of the Congressional Budget Act.

Bill: ***Paperwork and Regulatory Improvements Act of 2003*** (H.R. 2432). 

Committee: Government Reform

Summary: This bill grants the General Accounting Office permanent authority to evaluate economically significant agency rules. The bill also directs the Office of Management and Budget [OMB] to expand its regulatory accounting process; requires OMB to review the burden of information collection requirements imposed by the Internal Revenue Service on small business; and repeals the exemption granted in the Farm Security and Rural Investment Act of 2002 from certain regulatory review requirements for specific Department of Agriculture programs.

Cost: This bill neither increases direct spending nor reduces revenue.

Budget Act: The bill does not violate any provisions of the Congressional Budget Act.

Bill: ***Child Credit Preservation and Expansion Act of 2004*** (H.R. 4359).

Committee: Ways and Means

Summary: The bill would immediately and permanently increase the child tax credit to \$1,000 per qualifying child. Under current law, the credit is \$1,000 for tax year 2004, but is scheduled to decrease to \$700 for 2005-08 before increasing to \$800 in 2009 and to \$1,000 again in 2010. The credit then is scheduled to decrease to \$500 in 2011 and thereafter. The bill also would increase the amount of adjusted gross income at which the credit begins to phase out; the new levels would be \$250,000 for joint filers (up from \$110,000), and \$125,000 for single filers (up from \$75,000). In addition, the refundable portion of the credit – currently 10 percent of earned income above \$10,000 for 2004, and 15 percent for 2005 and thereafter – would be increased to 15 percent for 2004. Combat pay that is otherwise excludable would be included in determining whether the taxpayer meets the \$10,000 earned income threshold for the refundable credit.

Budget Effect: The Joint Committee on Taxation [JCT] has not provided a revenue estimate for H.R. 4359, although one is expected later this week. The President's Budget for fiscal

(continued on next page)

year 2005 includes a similar – though not identical – proposal, which would immediately and permanently extend the \$1,000 child tax credit and the refundable child credit. The JCT estimates that the President's proposal would have no budget effect in fiscal year 2004; would reduce revenue by \$28.5 billion over fiscal years 2004-08; and would increase outlays by \$13.765 billion over fiscal years 2004-08. For purposes of the budget resolution conference report expected to be agreed to for fiscal year 2005, the applicable enforcement periods would be as follows: the bill would reduce revenue by \$2.638 billion in fiscal year 2005, and by approximately \$36.5 billion over fiscal years 2005-09; and it would increase outlays by approximately \$18.22 billion over 2005-09.

Budget Act: It is uncertain whether a conference report on the budget resolution for fiscal year 2005 – which will govern budget enforcement of bills brought to the floor – will be completed and agreed to before H.R. 4359 is considered. Until then, the budget resolution for fiscal year 2004 remains in force. Because H.R. 4359 is not a committee-reported bill, Budget Act points of order do not apply. Had the Ways and Means Committee reported this bill, it likely would violate the Budget Act: the Ways and Means Committee has only \$576 million in budget authority remaining in its allocation for fiscal years 2004-08, whereas the President's similar proposal would increase outlays by \$13.765 billion over this period. In addition, the bill first causes spending to increase in fiscal year 2005, in violation of section 303 of the Budget Act. This section prohibits reported bills from causing spending increases or decreases that first becoming effective in a year for which a budget resolution has not been adopted.

It must be noted that the fiscal year 2005 budget resolution will likely assume the extension of this tax credit, and were that to be agreed to first, this legislation would likely be in compliance with that resolution.

Bill: *National Defense Authorization Act for Fiscal Year 2005* (H.R. 4200).

Committee: Armed Services

Summary: This bill authorizes appropriations for, and activities of, the Department of Defense [DOD]. Major items include language toughening arms export controls, funding for Boeing 767 tanker aircraft, limits on the purchase of foreign defense technologies, and a plan to increase active-duty military end-strength by 39,000 troops. A major provision with budget implications is the increase in the cap on military housing.

Other provisions include procurement for aircraft, missiles, weapons and tracked combat vehicles, ammunition, and shipbuilding and conversion; research, development, test, and evaluation, including ballistic missile defense capabilities; operations and maintenance, including defense working capital funds, the Armed Forces Retirement Home, the Defense Health Program, and chemical agents and munitions destruction; and active and reserve military personnel, including end strengths. The bill extends certain bonus, special, and incentive pay authorities. It provides bonus repayment requirements with respect to unserved periods. It expands certain travel and transportation allowances.

In a provision with significant budgetary effects, H.R. 4200 removes the statutory funding cap beginning in fiscal year 2006 for the Military Housing Privatization Initiative [MHPI], which will cause mandatory budget authority to rise by \$6.5 billion over fiscal years 2005-09. Under this program, the Government uses direct investment, loans, loan guarantees, and other financial arrangements to encourage private-sector parties to raise capital for building military housing. (The cost effect is further discussed below.)

Another significant mandatory provision of H.R. 4200 is a phased increase in Survivor Benefit Program [SBP] annuities. Current SBP policy mandates that survivors of retired military members receive 55 percent of the members' retired pay until age 62, when the

(continued on next page)

payment drops to 35 percent as the survivor becomes eligible for Social Security. H.R. 4200 would phase in an increase in benefits so as to reach 55 percent in April 2008.

The measure also contains a variety of provisions that affect organization and management of DOD, acquisition policies, certain personnel policies, and policies affecting the service academies and ROTC. These provisions have no impact on direct spending.

Cost: Preliminary estimates indicate that this measure has no budget effect in fiscal year 2004; that it reduces mandatory budget authority by \$22 million in fiscal year 2005; and that it increases direct spending by \$1.1 billion over fiscal years 2004-08. Because it saves additional mandatory budget authority in fiscal year 2009, the effect of the bill in fiscal years 2005-09 is to reduce mandatory budget authority by \$22 million.

Regarding the Military Housing Privatization Initiative, since the program's inception in 1996, the Congressional Budget Office [CBO] has treated spending for MHPI as discretionary spending, subject to annual appropriations. Now, however, CBO regards the obligations incurred by private contractors in the program as "direct spending," not subject to appropriations. CBO changed its scoring methodology because it now views "third-party financing" arrangements like MHPI as creating obligations over and above the Government's direct investment. This new budgetary treatment results in \$6.4 billion in direct spending over the next 5 years.

The expansion of the Survivor Benefit Program entitlement would cost \$7.0 billion over the 2005-2014 period

H.R. 4200 offsets the direct spending effects of both MHPI and SBP by repealing the KC-767 tanker lease (enacted last year) and by various asset sales. CBO treats the tanker lease as direct spending because the provisions of the lease contractually obligate the government beyond the budget year. H.R. 4200's repeal of portions of the lease agreement therefore makes mandatory funds available to offset the cost of MHPI and SBP. As noted, the offsets would not be sufficient to remain in compliance with the budget resolution currently in force; however, it would comply with the House-passed 2005 budget resolution. If MHPI were excluded from consideration because of the change in CBO's scoring methodology, H.R. 4200 would also be in compliance with the 2004 budget resolution now in effect.

Budget Act: The measure will violate the terms of the budget resolution currently in force, H. Con. Res. 95 (the resolution for fiscal year 2004) because it will cause the Armed Services Committee's allocation of new budget authority to be breached, in violation of section 302(f) of the Congressional Budget Act. Also, because it first becomes effective in fiscal year 2005, it will also violate section 303 of the Budget Act which prohibits consideration of spending measures first becoming effective in a year for which a budget resolution has yet to be adopted. The budget resolution for fiscal year 2005 has yet to be agreed to and so the measure will violate that provision of the Budget Act.